

HOUSE BILL 2215

By Tidwell

AN ACT relative to the levy of a privilege tax on the occupancy of any rooms, lodgings or accommodations furnished to transients by any hotel, inn, tourist camp, tourist courts, tourist cabins, motel or any place in which rooms, lodgings or accommodations are furnished for transients for a consideration in Wayne County.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. For the purposes of this Act:

(a) "Clerk" means the county clerk of Wayne County, Tennessee.

(b) "Consideration" means the consideration charged, whether or not received, for the occupancy in a hotel valued in money whether to be received in money, goods, labor or otherwise, including all receipts, cash, credits, property and services of any kind or nature without any deduction therefrom whatsoever. Nothing in this definition shall be construed to imply that consideration is charged when the space provided to the person is complimentary from the operator and no consideration is charged to or received from any person.

(c) "County" means Wayne County, Tennessee.

(d) "Hotel" means any structure or space, or any portion thereof, which is occupied or intended or designed for occupancy by transients for dwelling, lodging or sleeping purposes, and includes any hotel, inn, tourist camp, tourist court, tourist cabin, motel, or any place in which rooms, lodgings or accommodations are furnished to transients for a consideration.

(e) "Occupancy" means the use or possession, or the right to the use or possession, of any room, lodgings or accommodations in any hotel.

(f) "Operator" means the person operating the hotel whether as owner, lessee or otherwise, and shall include governmental entities.

(g) "Person" means any individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate, governmental unit other than the United States or any of its agencies, or any other group or combination acting as a unit.

(h) "Transient" means any person who exercises occupancy or is entitled to occupancy for any rooms, lodgings, spaces or accommodations in a hotel for a period of less than thirty (30) continuous days.

SECTION 2. The legislative body of Wayne County is authorized to levy a privilege tax upon the privilege of occupancy in any hotel of each transient, in the amount of five percent (5%) of the rate charged by the operator.

SECTION 3. The proceeds received by the county from the hotel tax shall be designated and used for Fund 172 (Community Development & Industrial Park), unless otherwise designated according to Section 11 of this Act.

SECTION 4. Such tax shall be added by each and every operator to each invoice prepared by the operator for the occupancy of the hotel and given directly or transmitted to the transient and shall be collected by such operator from the transient and remitted to Wayne County.

When a person has maintained occupancy for thirty (30) continuous days, that person shall receive from the operator a refund or credit for the tax previously collected or charged, and the operator shall receive credit for the amount of such tax if previously paid or reported to the county.

SECTION 5. (a) The tax levied shall be remitted by all operators who lease, rent or charge for any rooms or spaces in hotels within the county, to the county clerk or such other officer as may by resolution be charged with the duty of collection thereof, said tax to be remitted to such officer not later than the twentieth (20th) day of each month for the preceding month. The operator is required to collect the said tax from the transient at the time of the presentation of the invoice for said occupancy as may be the custom of the operator, and if credit is granted by the operator to the transient, then the obligation to the county entitled to such tax shall be that of the operator.

(b) For the purpose of compensating the operator in accounting for remitting the tax levied by these sections the operator shall be allowed three percent (3%) of the amount of the tax due and accounted for and remitted to the clerk in the form of a deduction in submitting the report and paying the amount due by such operator, provided the amount due was not delinquent at the time of payment.

SECTION 6. The clerk, or other authorized collector of the tax, shall be responsible for the collection of said tax and shall place the proceeds of such tax in accounts for the purposes stated herein. A monthly tax return shall be filed under oath with the clerk by the operator with such number of copies thereof as the clerk may reasonably require for the collection of such tax. The report of the operator shall include such facts and information as may be deemed reasonable for the verification of the tax due. The form of such report shall be developed by the clerk and approved by the county legislative body prior to use. The clerk shall audit each operator in the county at least once per year and shall report on the audits made on a quarterly basis to the county legislative body.

The county legislative body is hereby authorized to adopt resolutions to provide reasonable rules and regulations for the implementation of the provisions of this Act, including the form for such reports.

SECTION 7. No operator of a hotel shall advertise or state in any manner, whether directly or indirectly, that the tax or any part thereof will be assumed or absorbed by the operator or that it will not be added to the rent, or that if added, any part will be refunded.

SECTION 8. Taxes collected by an operator which are not remitted to the county clerk on or before the due dates are delinquent. An operator shall be liable for interest on such delinquent taxes from the due date at the rate of twelve percent (12%) per annum, and is liable for an additional penalty of one percent (1%) for each month or fraction thereof such taxes are delinquent. Such interest and penalty shall become a part of the tax herein required to be remitted. Each occurrence of willful refusal of an operator to collect or remit the tax or willful refusal of a transient to pay the tax imposed is a violation of this act and shall be punishable by a civil penalty not in excess of fifty dollars (\$50.00).

SECTION 9. It shall be the duty of every operator liable for the collection and payment to the county of any tax imposed by this Act to keep and preserve for a period of three (3) years all records as may be necessary to determine the amount of such tax as he or she may have been liable for the collection of and payment to the county, which records the county clerk shall have the right to inspect at all reasonable times.

SECTION 10. The county clerk in administering and enforcing the provisions of the Act shall have as additional powers, those powers and duties with respect to collecting taxes as provided in Title 67, Tennessee Code Annotated, or otherwise provided by law for the county clerks.

For services in administering and enforcing the provisions of this Act, the county clerk is entitled to retain as a commission five percent (5%) of the taxes so collected.

Upon any claim of illegal assessment and collection, the taxpayer has the remedies provided in Title 67, Tennessee Code Annotated, it being the intent of this Act that the

provisions of law which apply to the recovery of state taxes illegally assessed and collected shall also apply to the tax levied under the authority of this Act. The provisions of Tennessee Code Annotated, Section 67-1-707 shall be applicable to adjustments and refunds of such tax.

With respect to the adjustment and settlement with taxpayers, all errors of county taxes collected by the county clerk under the authority of this Act shall be refunded by the county clerk.

Notice of any tax paid under protest shall be given to the county clerk and the resolution authorizing levy of the tax shall designate a county officer against whom suit may be brought for recovery.

SECTION 11. The proceeds of the tax authorized by this Act shall be allocated to and placed in the General Fund (or other fund) of Wayne County to be used for the purposes stated in Section 3 of this Act.

SECTION 12. The tax levied pursuant to the provisions of this act shall only apply in accordance with the provisions of Tennessee Code Annotated, Section 67-4-1425.

SECTION 13. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to that end the provisions of this Act are declared to be severable.

SECTION 14. This Act shall have no effect unless it is approved by a two-thirds (2/3) vote of the county legislative body of Wayne County. Its approval or nonapproval shall be proclaimed by the presiding officer of the county legislative body to the Secretary of State.

SECTION 15. For the purpose of approving or rejecting the provisions of this Act, it shall be effective upon becoming a law, the public welfare requiring it. For all other purposes, this act shall take effect upon being approved as provided by Section 14.